

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

SARDINHA SAUSAGE, INC., and)
MR. EDWARD SARDINHA,)

Defendants.)

Civil Action No.

04 11797 GAO

RBe

RECEIPT # _____
AMOUNT \$ N/A
SUMMONS ISSUED yes
LOCAL RULE 4.1 _____
WAIVER FORM _____
MCF ISSUED _____
BY DPTY. CLK. FOR
DATE 8/17/04

COMPLAINT FOR INJUNCTION

1. This is a civil action brought by the United States of America on behalf of the U.S. Department of Agriculture pursuant to 21 U.S.C. §§ 467C, 674, to enjoin defendants from selling, offering for sale, or transporting in commerce, meat and poultry products manufactured in violation of the Federal Meat Inspection Act ("FMIA"), 21 U.S.C. §§ 601 et seq. and the Poultry Products Inspection Act ("PPIA"), 21 U.S.C. §§ 451 et seq. and to restrain defendants' use of the United States Department of Agriculture ("USDA") seal of inspection and approval on meat and poultry products that they place in commerce in violation of the Acts.

2. This Court has jurisdiction over this action pursuant to 21 U.S.C. §§ 467c and 674 and 28 U.S.C. §§ 1331, 1337, and 1345.

3. Venue is proper in the District of Massachusetts pursuant to 28 U.S.C. § 1391(b) and (c).

4. Defendant Sardinha Sausage, Inc., is a meat and poultry processing facility located at 206 Brownell Street, Fall River, Massachusetts.

5. Defendant Edward Sardinha is the owner and manager of Sardinha Sausage, Inc.
6. Defendants are and have been engaged in the business of manufacturing, selling, offering for sale and transportation in commerce, meat products and poultry and poultry products prepared, sold from and transported from their facility in Fall River.
7. The FMIA prohibits the selling, transporting, offering for sale or transportation or receiving for transportation, in commerce, of meat or meat food products for use as human food that have not been inspected, passed and so marked by the USDA. 21 U.S.C. § 610(c). The FMIA also prohibits the representation of meat products as having been inspected and approved by the USDA when such products have not been so inspected and approved. 21 U.S.C. § 611.
8. The PPIA contains nearly identical prohibitions governing poultry and poultry products. 21 U.S.C. § 458(a) and (c).

Causes of Action

9. The USDA suspended Federal Inspection of Sardinha Sausage, Inc., on April 15, 2004, due to defendants' failure to comply with food safety and sanitation requirements of the FMIA and the PPIA and the regulations promulgated thereunder.
10. Since April 15, 2004, when USDA inspections ceased, defendants sold and transported and have offered for sale and transportation, in commerce, meat and poultry products that have not been inspected and approved by USDA. Defendants labeled these products as having been USDA inspected and approved, when, in fact, the products have not been inspected and approved by USDA, in violation of the FMIA and the PPIA.
11. On or about May 4, 2004, and on other dates, defendants shipped quantities of

Sardinha Sausage Inc., meat products, namely, marinated pork chourico, in commerce, to Shaw's Supermarket in Fall River, Massachusetts. The labeling on the products indicated that they had been USDA inspected and approved, when, in fact, said meat products had not been USDA inspected and approved.

12. On or about May 4, 2004, and on other dates, defendants shipped quantities of Sardinha Sausage Inc., meat products, namely, marinated pork chourico, in commerce, to Shaw's Supermarket in Dartmouth, Massachusetts. The labeling on the products indicated that they had been USDA inspected and approved, when, in fact, said meat products had not been USDA inspected and approved.

13. On or about May 7, 2004, and on other dates, defendants shipped quantities of Sardinha Sausage, Inc., meat products, namely marinated pork chourico, in commerce, to Shaw's Supermarket in Middletown, Rhode Island. The labeling on the products indicated that they had been USDA inspected and approved, when, in fact, said products had not been USDA inspected and approved.

13. On or about June 14, 2004, and on other dates, defendants shipped quantities of Sardinha Sausage, Inc., meat products, namely chicken chourico sausage, offered for sale in commerce to Trader Joe's East, Inc., in Needham, Massachusetts and held for storage at P&O Cold Logistics warehouse. The labeling on the products indicated that they had been USDA inspected and approved, when, in fact, said products had not been USDA inspected and approved.

14. Since USDA inspection of Sardinha Sausage, Inc., was suspended, Federal Food

Safety and Inspection Service investigators have observed cases of meat product at Sardinha Sausage, Inc., manufactured since USDA suspension of inspection and bearing the USDA seal of federal inspection and approval.

15. The USDA Food Safety and Inspection Service had issued letters of warning to defendants for similar violations involving the preparation, sale and offer of sale of non-federally inspected meat and poultry products in commerce, on February 28, 2001, and on February 25, 2002. It sent a Notice of Alleged Violation to defendants on May 18, 2004.

16. Unless enjoined, restrained and prohibited from further violations of the FMIA and PPIA, defendants in all likelihood will continue to prepare and sell, offer for sale, or transport in commerce, uninspected meat and meat food products and poultry and poultry food products for human consumption, and defendants will continue to prepare and offer for sale and transport, in commerce, meat and poultry products represented as USDA inspected and approved, when in fact they have not been inspected and approved by USDA.

Relief Requested

The United States requests that this Court issue the following relief:

A temporary and permanent Injunction that:

(1) Enjoins and restrains defendants from directly or indirectly selling, offering for sale or transportation, in commerce, meat and poultry products for human use, required to be inspected and approved by the USDA.

(2) Enjoins and restrains defendants from directly or indirectly applying marks or in any way indicating that meat and poultry products sold, offered for sale or transportation, in


commerce, have been inspected and approved by the USDA, unless such products are produced under Federal inspection and in accordance with the applicable laws and regulations.

(3) Requires and compels defendants to comply with all applicable sections of the FMIA and PPIA and the regulations thereunder regarding selling, offering for sale or transporting in commerce, of meat products and poultry products only if said products are produced under USDA inspection and approval.

(4) Awards the United States of America its costs of bringing this action, as well as such other relief as the Court deems just and proper.

Respectfully submitted,

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DATED: August 17, 2004.